

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT  
W.D.N.Y.-BUFFALO

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EVAN WESTMORELAND, 05R2170,

Plaintiff,

-v-

DECISION AND ORDER  
07-CV-0154Sr

PATRICK O'FLYNN, Sheriff of Monroe County  
and DEPUTY OFFICER AFONTIE, Deputy and  
Corrections Officer Monroe County Jail;

Defendants.

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Plaintiff, who is incarcerated in the Attica Correctional Facility, has requested permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a) and has both met the statutory requirements and furnished the Court with a signed Authorization. Accordingly, plaintiff's request to proceed as a poor person is hereby granted. Plaintiff's complaint has been screened by the Court with respect to the 28 U.S.C. §§ 1915(e) and 1915A criteria.

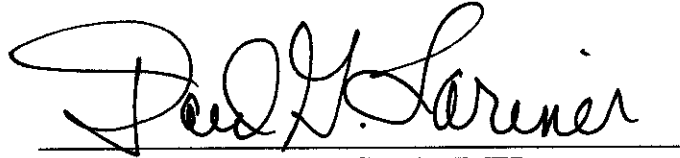
Plaintiff has also requested appointment of counsel. There is insufficient information before the Court at this time to make the necessary assessment of plaintiff's claims under the standards promulgated by *Hendricks v. Coughlin*, 114 F.3d 390, 392 (2d Cir. 1997), and *Hodge v. Police Officers*, 802 F.2d 58 (2d Cir. 1986), as issue has yet to be joined. Therefore plaintiff's motion for appointment of counsel is denied without prejudice at this time. It is the plaintiff's responsibility to retain an attorney or press forward with this lawsuit *pro se*. 28 U.S.C. § 1654.

The Clerk of the Court is directed to file plaintiff's papers, and to cause the United States Marshal to serve copies of the Summons, Complaint, and this Order upon the named defendants

without plaintiff's payment therefor, unpaid fees to be recoverable if this action terminates by monetary award in plaintiff's favor.

Pursuant to 42 U.S.C. § 1997e(g)(2), the defendants are directed to answer the complaint.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

DATED: April 26, 2007  
Rochester, New York